

## Office of the Secretary of Defense

## § 223.3

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(26) *U.S. Strategic Command*. U.S. Strategic Command, Attention: CS50, 901 SAC Blvd., STE 1C17, Offutt AFB, NE 68113-6000.

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(28) Interagency Security Classification Appeals Panel <http://www.archives.gov/isoo/oversight-groups/iscap/index.html>.

(29) Principal Mandatory Declassification Review (MDR) Contacts at Federal Agencies <http://www.archives.gov/isoo/contact/mdr-contact.html>.

## PART 223—DOD UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION (UCNI)

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AUTHORITY: 10 U.S.C. 128 and 5 U.S.C. 552(b)(3).

SOURCE: 77 FR 43506, July 25, 2012, unless otherwise noted.

### § 223.1 Purpose.

This part:

(a) Updates policies, assigns responsibilities and prescribes procedures for the implementation of 10 United States Code (U.S.C.) 128, which is the statutory basis for controlling unclassified information on the physical protection of DoD special nuclear material (SNM), SNM equipment, and SNM facilities. Such information is referred to as DoD UCNI, to distinguish it from a similar Department of Energy (DOE) program.

(b) Identifies the authority to be used for denying disclosure of DoD UCNI pursuant to 5 U.S.C. 552.

(c) Supplements security classification guidance contained in DoD Instruction 5210.67,<sup>1</sup> DOE classification guide CG-SS-4,<sup>2</sup> and DoD/DOE joint classification guides by establishing procedures for identifying, controlling, and limiting the dissemination of unclassified information on the physical protection of DoD SNM.

### § 223.2 Applicability.

This part applies to:

(a) Office of the Secretary of Defense, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereinafter referred to collectively as the “DoD Components”).

(b) All SNM, regardless of form, whether in reactor cores or other items under the direct control of the DoD Components (hereinafter referred to as “DoD SNM”).

(c) Nuclear weapons containing SNM that are in DoD custody (hereinafter referred to as “nuclear weapons in DoD custody”).

(d) Contractors, consultants, and grantees of the Department of Defense.

### § 223.3 Definitions.

These terms and their definitions are for the purposes of this part:

<sup>1</sup>Copies available on the Internet at <http://www.dtic.mil/whs/directives/corresp/pdf/521067p.pdf>.

<sup>2</sup>Copies available to authorized recipients from the Director of Classification, Department of Energy.

(a) *Atomic Energy Defense Programs.* Activities, equipment, and facilities of the Department of Defense that are capable of the following:

(1) Development, production, testing, sampling, maintenance, repair, modification, assembly, utilization, transportation, or retirement of nuclear weapons or nuclear weapon components.

(2) Production, utilization, or transportation of DoD SNM for military applications.

(3) Safeguarding of activities, equipment, or facilities that support the functions in paragraphs (a)(1) and (a)(2) of this section, including the protection of nuclear weapons, nuclear weapon components, or DoD SNM for military applications at a fixed facility or in transit.

(b) *Document or material.* The physical medium on or in which information is recorded, or a product or substance that contains or reveals information, regardless of its physical form or characteristics.

(c) *DoD UCNI.* Unclassified information on the physical protection of DoD SNM, SNM equipment, and SNM facilities, including unclassified information on the physical protection of nuclear weapons containing SNM that are in DoD custody.

(d) *Information.* Any fact or concept, regardless of the physical form or characteristics of the medium on or in which it is recorded, contained, or revealed.

(e) *Intelligence Community.* An element or agency of the U.S. Government identified in or designated pursuant section 3.5(h) of Executive Order 12333, as amended.

(f) *Reviewing official.* An individual appointed by the Assistant Secretary of Defense for Nuclear, Chemical, and Biological Defense Programs who may make a determination that a document or material contains, does not contain, or no longer contains DoD UCNI.

(g) *Safeguards.* An integrated system of physical protection, document and material accounting, and control measures designed to deter, prevent, detect, and respond to unauthorized possession, use, or sabotage of DoD SNM, SNM equipment, SNM facilities, or nuclear weapons in DoD custody.

(h) *SNM.* Defined in 42 U.S.C. 2014.

(i) *SNM equipment.* Equipment, systems, or components whose failure or destruction would cause an impact on safeguarding DoD SNM resulting in an unacceptable interruption to a national security program or an unacceptable impact on the health and safety of the public.

(j) *SNM facility.* A DoD facility that performs a function in support of Atomic Energy Defense Programs whose disruption could reasonably be expected to have a significant adverse effect on safeguarding DoD SNM, the health and safety of the public or the common defense and security.

(k) *Unauthorized dissemination.* The intentional or negligent transfer, in any manner and by any person, of information contained in a document or material determined by a reviewing official to contain DoD UCNI, and so marked in accordance with the procedures in § 223.6 of this part, to any person or entity other than an individual or entity authorized access to DoD UCNI in accordance with 10 U.S.C. 128 and this part.

#### § 223.4 Policy.

It is DoD policy that:

(a) Unauthorized dissemination of unclassified information pertaining to security measures, including security plans, procedures, and equipment, for the physical protection of DoD SNM, SNM equipment, SNM facilities, or nuclear weapons in DoD custody is prohibited.

(b) Unclassified information shall be protected as DoD UCNI based on a determination that the unauthorized dissemination of such information could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of the illegal production of nuclear weapons or the theft, diversion, or sabotage of DoD SNM, SNM equipment, SNM facilities, or nuclear weapons in DoD custody.

(c) Unclassified information regarding physical protection of DoD SNM and nuclear weapons in DoD custody shall be made publicly available to the fullest extent possible by applying the minimum restrictions, consistent with